

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Applications of Nextel Communications, Inc. and	)	WT Docket No. 05-63
Sprint Corporation	)	
	)	
For Consent to Transfer Control of Licenses and	)	
Authorizations	)	
	)	
File Nos. 0002031766, <i>et al.</i>	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 3, 2005**

**Released: August 8, 2005**

By the Commission: Commissioners Abernathy, Copps, and Adelstein issuing separate statements.

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to discontinue service to those customers after the merger is completed. In reply, Sprint claims that US Unwired's request constitutes a private contractual matter and should be denied.<sup>427</sup>

181. We agree that US Unwired's request is a private contractual dispute that is not relevant to our public interest analysis and is best resolved by the parties, or in courts of competent jurisdiction.<sup>428</sup> Accordingly, US Unwired's request is denied.

### 3. CWA's Petition to Impose Conditions

182. Commenters suggest that, to the extent that our benefits analysis is predicated on the spin-off of Sprint's Local Division, we must also consider any potential harms to Sprint's wireline consumers that might result from the spin-off,<sup>429</sup> and that the merger must be conditioned upon the approval of the Applicants' commitment to a "fair and equitable allocation" of corporate assets and debt at the time of the separation of the Sprint's Local Division, which is Sprint's local exchange business.<sup>430</sup>

183. Even though our benefits analysis in this transaction is not dependent on the announced future spin-off of Sprint's Local Division, we note that Sprint and Nextel have submitted a letter in this proceeding specifically addressing CWA's comments.<sup>431</sup> Gary D. Forsee, Sprint's Chairman and CEO, and Timothy M. Donahue, Nextel's President and CEO, submitted a letter to the Commission on August 2, 2005, stating that the new local company, LTD Holding Company, "will receive an equitable debt and asset allocation at the time of its proposed spin-off so that the company will be a financially secure, Fortune 500 company."<sup>432</sup> They state that "[i]ts stock is expected to be traded on the New York Stock Exchange; and it anticipates having a level of equity, debt and other financial characteristics consistent with those of companies that have been rated 'investment grade' by major ratings agencies."<sup>433</sup> Furthermore, Mr. Forsee and Mr. Donahue state that, as part of the state commission approval process for this spin-off and resulting change of control of its local telephone operations, Sprint Nextel "will

<sup>427</sup> Sprint Reply to Informal Request at 1 (June 10, 2005).

<sup>428</sup> See Applications of Vodafone Airtouch, PLC and Bell Atlantic Corp., Order on Further Reconsideration, 17 FCC Rcd 10998, 11000 ¶ 6 (WTB 2002), *reconsideration dismissed* 18 FCC Rcd 1861 (WTB 2003), *review denied in part, dismissed in part* 20 FCC Rcd 6439 (2005). See also *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21552 n.222 (citing Vodafone AirTouch, PLC, and Bell Atlantic Corp., *Memorandum Opinion and Order*, 15 FCC Rcd 16507, 16511-12 ¶ 12 (WTB, IB 2000) ("*Bell Atlantic-Vodaphone Order*") and Applications of Centel Corp. and Sprint Corp., *Memorandum Opinion and Order*, 8 FCC Rcd 1829, 1831 ¶ 10 (CCB 1993)). The Commission has refused to interject itself into private matters, finding that a court, and not the Commission, is the proper forum to resolve such disputes. *Bell Atlantic-Vodaphone Order*, 15 FCC Rcd at 16514 n.37 (citing Applications of WorldCom and MCI Communications Corp., *Memorandum Opinion and Order*, 13 FCC Rcd 18025, 18148 ¶ 214 (1998); PCS 2000, L.P., 12 FCC Rcd 1681, 1691 ¶ 93 (1997)). We note that since US Unwired filed its informal request in this proceeding, it has been reported that Sprint has agreed to acquire US Unwired. Sprint to Buy US Unwired Affiliate, *Wall St. J.*, July 12, 2005, at B3. It is further reported that among other matters, as part of that agreement, Sprint and US Unwired would seek a stay of certain court litigation between those two parties. *Id.*

<sup>429</sup> CWA Petition at 2, 4-5; see also New Jersey Ratepayer Reply 6-7.

<sup>430</sup> CWA Petition at 6-9.

<sup>431</sup> Letter from Gary D. Forsee, Chairman and CEO, Sprint Corp., and Timothy M. Donahue, President and CEO, Nextel Communications, Inc., to Ms. Marlene H. Dortch, Secretary, FCC, WT Docket No. 05-63 (filed Aug. 2, 2005).

<sup>432</sup> *Id.* at 1.

<sup>433</sup> *Id.* Sprint and Nextel note that the planned spin-off of Sprint's local telephone operations will be the largest independent local exchange carrier in the nation, with 2004 annual revenues exceeding \$6 billion, and serving more than 7.5 million switched access lines in 18 states as of the end of June 2005.

demonstrate that the New Local Company will possess the requisite financial strength, in addition to managerial and technical capability, to fully perform its public service obligations."<sup>434</sup> We find that these statements represent commitments by Sprint Nextel that the new local wireline company, LTD Holding Company, will receive an equitable debt and asset allocation at the time of its proposed spin-off so that the company will be a financially secure, Fortune 500 company, and that Sprint Nextel will demonstrate that the new local company will possess the requisite financial strength, in addition to managerial and technical capability, to fully perform its public service obligations. In addition, these statements are presumably made in accordance with the Commission's requirements of candor and truthfulness,<sup>435</sup> and, for this reason, we award them substantial weight.

## VI. CONCLUSION

184. As discussed above, we find that public interest harm is unlikely as a result of this transaction, primarily because of the presence of multiple other carriers who have the ability to act as effective competitive constraints on the behavior of the merged entity. Therefore, while the structure of markets will change as a result of the transaction, we find that carrier conduct will remain sufficiently competitive to ensure that market performance will not be impaired, and, given the expected benefits, the public interest will be enhanced on balance.

185. We emphasize that our judgment in this matter does not mean that our analysis would be the same if additional consolidation in this sector were to be proposed in the future. Clearly, there is a point beyond which further consolidation would not be in the public interest. As we have here, when reviewing any future applications of this nature we will look closely at the competitive circumstances pertaining at that time in the affected markets and will make a considered judgment based on careful weighing of all the relevant circumstances.

## VII. ORDERING CLAUSES

186. Accordingly, having reviewed the applications, the petitions, and the record in this matter, IT IS ORDERED that, pursuant to sections 4(i) and (j), 214, 309, 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 214, 309, 310(d), the applications for the transfer of control of licenses and authorizations as discussed herein from Nextel to Sprint ARE GRANTED, to the extent specified in this order and subject to the condition specified below.

187. IT IS FURTHER ORDERED that, pursuant to section 1.9030 of the Commission's rules, 47 C.F.R. § 1.9030, the application for the transfer of control of de facto transfer lease authorizations from Nextel to S-N Merger Corporation is GRANTED, to the extent specified in this order and subject to the conditions specified below.

188. IT IS FURTHER ORDERED that the above grant shall include authority for Sprint to acquire control of: (a) any license or authorization issued to Nextel and its subsidiaries during the Commission's consideration of the transfer of control applications or the period required for consummation of the transaction following approval; (b) construction permits held by such licensees that mature into licensees after closing; and (c) applications filed by such licensees and that are pending at the time of consummation of the proposed transfer of control.

189. IT IS FURTHER ORDERED that, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.24 of the Commission's rules, 47, C.F.R. § 63.24, the application to transfer control of Nextel's international Section 214 authorization to Sprint IS GRANTED subject to the conditions applicable to international section 214 authorizations.

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<sup>434</sup> *Id.* at 2 n.2.

<sup>435</sup> See 47 CFR §1.17.



6200 Sprint Parkway  
Overland Park, KS 66251



2001 Edmund Halley Drive  
Reston, VA 20191

## **EX PARTE PRESENTATION**

*By Electronic Filing*

August 2, 2005

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
TW-A325  
Washington, DC 20554

Re: Written Ex Parte Presentation  
Applications for Consent to the Transfer of Control of Licenses and  
Authorizations from Nextel Communications, Inc. and its Subsidiaries to  
Sprint Corporation, WT Docket No. 05-63

Dear Ms. Dortch:

This written ex parte presentation provides additional information concerning the planned spin-off of the incumbent local telephone operations of Sprint Corporation (Sprint) to the shareholders of Sprint Nextel after the merger of Sprint and Nextel Communications, Inc. (Nextel) has been consummated.

The new local company, named LTD Holding Company (until its new brand is launched at the time of the spin-off), will be the largest independent local exchange carrier in the nation, with 2004 annual revenues exceeding \$6 billion, and serving more than 7.5 million switched access lines in eighteen states as of the end of June 2005. LTD Holding Company will receive an equitable debt and asset allocation at the time of its proposed spin-off so that the company will be a financially secure, Fortune 500 company.<sup>1</sup> Its stock is expected to be traded on the New York Stock Exchange; and it anticipates having a level of equity, debt and other financial characteristics consistent with those of companies that have been rated "investment grade" by major ratings agencies. Building upon the strong and proven financial performance of Sprint's ILEC

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<sup>1</sup> Had it operated on a standalone basis in 2004, the revenues of LTD Holding Company would place it at approximately 335 on the Fortune 500 List.

operations, LTD Holding Company is expected both to generate ample cash flow and to pay a dividend that will be attractive to investors.<sup>2</sup>

LTD Holding Company will be led by a highly talented and experienced management team. At the helm, Daniel R. Hesse, recently named Chief Executive Officer of Sprint's Local Telecommunications division, will be the Chief Executive Officer of the LTD Holding Company. Mr. Hesse has extensive experience in the telecommunications industry, including 23 years at AT&T, where he served as President and Chief Executive Officer of AT&T Wireless Services from 1997-2000. Most recently, Mr. Hesse was Chairman, President and Chief Executive Officer of Terabeam Corporation, a Seattle-based telecommunications company. Michael B. Fuller has been named the Chief Operating Officer of LTD Holding Company. Mr. Fuller, currently President and Chief Operating Officer of Sprint's Local Telecommunications division, has more than 30 years' experience with Sprint, and after holding key management positions in both local and long distance operations, has led Sprint's local telephone operations since 1996. Gene Betts, currently Sprint's Senior Vice President and Treasurer, has been named Chief Financial Officer of LTD Holding Company. Tom Gerke, currently Executive Vice President-General Counsel and External Affairs of Sprint, has been named General Counsel for LTD Holding Company. These leaders, and their roughly 20,000 associates, will position LTD Holding Company to provide superior service to its customers.

Indeed, the creation of LTD Holding Company as a separate company will *enhance* its ability to meet its customers' needs. Today, Sprint is primarily a nationally-focused wireless carrier, and after the merger with Nextel is completed, the merged Sprint Nextel will be even more so. Divesting Sprint's wireline local service operations into an independent, stand-alone corporation will create a company with a laser-sharp strategic focus on meeting the needs of its residential and business customers in its local franchised territory. With this clarity of vision and purpose, LTD Holding Company can and will offer a full range of high-quality services – wireline and wireless, voice, data and video – tailored to the specific needs of the customers and locales it will serve.

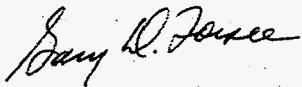
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<sup>2</sup> As part of the state PUC approval process for the planned spin off and resulting change of control of its local telephone operations, Sprint Nextel will demonstrate that the New Local Company will possess the requisite financial strength, in addition to managerial and technical capability, to fully perform its public service obligations.

Ms. Marlene H. Dortch  
August 2, 2005  
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As leaders of Sprint and Nextel, we are naturally excited about the capabilities that the new Sprint Nextel will bring to the marketplace. But we are also excited about the prospects that LTD Holding Company will bring to its millions of customers, and we are committed to a timely and successful launch of that company as soon as all requisite regulatory approvals have been obtained.

Sincerely,



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Gary D. Forsee  
Chairman and Chief Executive  
Officer  
Sprint Corporation



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Timothy M. Donahue  
President and Chief Executive  
Officer  
Nextel Communications, Inc.

CC: Chairman Kevin J. Martin  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein

Joint Application for All Approvals  
Required under the Pennsylvania Public  
Utility Code In Connection With  
Changes of Control of The United  
Telephone Company of Pennsylvania  
d/b/a Sprint and Sprint Long Distance,  
Inc.

Docket No. A-\_\_\_\_\_

RECEIVED  
2005 AUG 26 PM 3:00  
SECRETARY'S BUREAU

**JOINT APPLICATION FOR ALL APPROVALS REQUIRED  
UNDER THE PENNSYLVANIA PUBLIC UTILITY CODE IN CONNECTION WITH  
CHANGES OF CONTROL OF THE UNITED TELEPHONE COMPANY OF  
PENNSYLVANIA D/B/A SPRINT AND SPRINT LONG DISTANCE, INC.**

To the Honorable Pennsylvania Public Utility Commission:

Pursuant to Sections 1102 and 1103 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1102, 1103, The United Telephone Company of Pennsylvania *d/b/a* Sprint (hereinafter "United PA") and Sprint Long Distance, Inc. (hereinafter "LTD Long Distance") hereby request that the Pennsylvania Public Utility Commission ("Commission") issue all approvals required under the Pennsylvania Public Utility Code in connection with the changes of control described herein.

**I. INTRODUCTION**

1. Sprint Nextel Corporation ("Sprint") plans to separate its wireline local service operation into an independent stand alone operation. As part of that transaction, a new holding

will continue to be managed by employees with established ties to the community and extensive knowledge of the local telephone business.

32. United PA and LTD Long Distance will continue to receive certain management services, but from a new management company subsidiary of LTD Holding Company,<sup>16</sup> staffed by many of the same experienced and knowledgeable persons currently providing these services. In the past, these centralized functions included human resource services, finance services, tax services, communications services, legal services, planning services, general support services, and information services, allowing the individual operating companies to benefit from the efficiencies enjoyed with centralized support services.<sup>17</sup> After separation, United PA and LTD Long Distance will continue to receive similar management services from LTD Management Company, thereby continuing to enjoy efficiencies from centralized support services and the benefits of an experienced staff. These new affiliate arrangements will comply with appropriate federal and state affiliate pricing and filing requirements.

33. The separation will not alter existing relationships between United PA and its bargaining unit employees and their representatives. United PA will continue to honor its existing collective bargaining agreement with the Communications Workers of America ("CWA") for the United PA Butler service territory. The CWA agreement for Butler, Pennsylvania is effective until November 1, 2005. For any agreement expiring before the completion of the separation, United PA will seek new agreements covering those bargaining

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<sup>16</sup>In order to provide the management services post-separation, LTD Management Company, a Delaware corporation, was created. LTD Management Company is currently a subsidiary of Sprint. Post-separation, it will be a subsidiary of LTD Holding Company.

<sup>17</sup> For the transition period, United PA and LTD Long Distance may continue to receive some of these centralized functions from Sprint as the new management company builds these capabilities. These Transition Services Agreements will ensure continuity of services as LTD Holding Company separates from Sprint.



units. Discussions have begun with the international representatives of the unions representing its bargaining units to provide periodic updates on the separation and to allow a forum for discussion of issues of mutual interest.

34. At the time of the separation, existing Sprint employees employed by LTD Holding Company and United PA are expected to have available to them a defined benefit pension plan, with terms and benefits reasonably equivalent to the Sprint plan. The benefit pension plan has been and will continue to be appropriately funded to meet current and future benefit obligations. Like other companies, LTD Holding Company will review its pension benefit plan from year-to-year in order to remain competitive in the market for employees.

35. LTD Holding Company will maintain and evolve comprehensive compensation and benefit programs that allow the company to recruit and retain highly qualified and motivated employees. While the dynamics of the labor and benefits markets, irrespective of the separation, may necessitate changes to the company's compensation and benefit plans from year-to-year as has been the case in the past, the separation will not result in compensation and benefit changes that would hamper the company's ability to remain competitive in the market for employees.

**B. United PA and LTD Long Distance, Through LTD Holding Company, Will Continue to Possess the Required Financial Capability**

36. Upon completion of the separation, United PA will continue to be financially capable of fulfilling all of the requirements of a public utility in Pennsylvania. This capability will be unaffected by the change in its ultimate corporate parent. See Initial Testimony of Kent W. Dickerson. Exhibit KWD-1 to Kent W. Dickerson's Initial Testimony contains a Statement of Operations for United PA for the twelve months ended December 31, 2004 based on a total company, ARMIS basis. Exhibit KWD-2 to the testimony contains the December 31, 2004